

REMARKS

Claims 1-6, 9, 11, 12, and 20 are pending in the present application. Claims 1-3, 5-6, 9, 12, and 20 have been amended in this response. Claim 7, 8, 10, and 13-19 have been cancelled.

In the Office Action dated October 29, 2008, the Examiner objected to Claim 13 as a substantial duplicate of Claim 3. Claim 13 has been cancelled to obviate this rejection. Applicants request that the Examiner withdraw this objection.

In the Office Action dated October 29, 2008, the Examiner rejected Claims 6-10 because the specification does not reasonably provide enablement. With regard to Claim 6, Claim 6 has been amended to clearly recite that the marker element is attached to the carrier structure at the cover layer. With regard to Claim 9, Claim 9 has been amended to clearly recite that the marker element is attached to the carrier structure in a region of a longitudinal end of the stent. Claims 7-8 and 10 have been cancelled. Applicants believe that this obviates this rejection and requests that the Examiner withdraw this rejection.

Applicants note that Fig. 3 shows a marker element and cover that is formed by a hollow wire (or sleeve) having a core that is filled with radio opaque material (or marker element). In this example, the sleeve happens to be made from the same material of the carrier structure. The applicant also notes that the marker element shown in Fig. 3 of the application is attached to the carrier structure by welding the sleeve (or cover) the remaining carrier structure, since the material of the sleeve (or cover) and the carrier structure comprise the same material, welding is easily facilitated.

In the Office Action dated October 29, 2008, the Examiner rejected Claims 2-4, 6-11, 13 and 14 as being indefinite. Applicants have amended Claims 2 to recite the carrier structure comprises a cut out metal tube including legs forming apertures, and having at least one marker element welded in at least one of the apertures. Claims 6 and 9 have been amended as been

amended as indicated above. Claims 7-8, 10, 13, and 14 have all been cancelled. Applicants believe that this obviates this rejection and Applicants respectful request that the Examiner withdraw this rejection.

In the Office Action dated October 29, 2008, the Examiner rejected Claims 1-3, 6-13, 15, 16 and 20 as being anticipated by Dang (6,471,721). The Examiner also rejected Claims 4 and 14 as unpatentable over Dang (6,471,721) in view of applicant's admissions. Additionally, the Examiner rejected Claims 5, 17 and 18 being unpatentable over Dang (6,471,721) in view of Kranz et al. (6,312,456).

Independent Claim 2 has been amended to recite, in pertinent part, that a stent has a metallic, at least partially radiolucent carrier structure comprising a cut out metal tube including legs forming apertures, and has at least one marker element welded in at least one of the apertures, the marker element including a comparatively radiopaque material filling and completely enclosed by a cover layer of a metal or metal compound including material other than the comparatively radiopaque material forming a hollow wire. None of the art of record shows or suggests, alone or in combination such a stent.

Regarding the Examiner's argument that the structure disclosed in Fig. 5 of US 6,471,721 essentially corresponds to a hollow wire cover with a radio-opaque material marker, with coating 14 corresponding to the material of the carrier structure, it is clear from Fig. 5 that the tubing 11 may include a radio opaque material 13 with a covering layer 14, see col. 5 lines 65-67. These are clearly inhomogeneous materials with the radio opaque material 13 filling the grooves 12 in the tubing 11 and a cover layer 14 on top thereof. By contrast, in the present application independent claim 2 clearly recites a marker element including a comparatively radiopaque material filling and completely enclosed by a cover layer.

None of the art of record shows or suggests a stent having a metallic, at least partially radiolucent carrier structure including legs forming apertures, and a marker element welded in one of the apertures, the marker element including a comparatively radiopaque material completely enclosed by a cover layer including a metal or a metal compound, as recited in

independent Claim 2. Simply, none of the art of record shows or suggests a stent having carrier structure and a marker completely enclosed by a cover welded in an aperture defined by the carrier structure, where the cover layer and marker element are a hollow wire cover layer filled with a comparatively radiopaque material that forms a marker element. None of the art of record shows or suggests such a stent.

For example, Dang discloses grooves in stents, where marker material is filled in and that later on are closed by sputtering. The Examiner stated that the grooves of Dang comprise apertures for marker elements. Applicants note that grooves, as shown and explained in Dang, as generally understood by one skilled in the art, and recited in the dictionary, are long narrow channels or depressions in the surface of something; apertures as shown and explained in the present application, as generally understood by one skilled in the art, and recited in the dictionary are open spaces or holes through something. Even when given the broadest, most reasonable meaning, grooves most certainly do not comprise apertures.

Thus, in light of the above amendments and for the reasons stated above, it is believed that amended Independent Claim 2 is patentable over the art of record and Applicants request that the Examiner withdraw the rejections of Claim 2.

Regarding Claims 1, 3-6, 9, 11 and 12 these claims are all dependent from Independent Claims 2 and contain all of the limitations recited therein. Accordingly, Applicants believe that Claims 1, 3-6, 9, 11, and 12 are patentable over the art of record and respectfully request that the Examiner withdraw the rejections of these claims.

Regarding Claim 20, the method of Claim 20 has been amended to recite implanting a self-expanding stent similar to the stent recited in Claim 2. Therefore, for the reasons stated above, the Applicants believe that Claim 20 is patentable over the art of record and respectfully request that the Examiner withdraw the rejections of this Claim.

In light of the above amendments and for the reasons stated above Applicants believe that the rejections of the claims has been obviated and that the claims are currently in condition for allowance. A notice thereof is respectfully requested.

The outstanding Office Action was electronically transmitted on 29 October 2008. The Examiner set a shortened statutory period for reply of 3 months from the mailing date. 28 February 2009 was a Saturday; this response is dated 02 March 2009, the immediately following Monday. Therefore, the Applicants believe that this response is timely filed with a request for a one month extension of time. The Applicants, however, hereby make a conditional petition for any further necessary extensions of time for response in the event that such a petition is required. The Commissioner is authorized to charge any fee required with the filing of this paper or to credit any overpayment to Deposit Account 15-0450.

Respectfully submitted,

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